



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,146	09/30/2003	Uwe Hering	NOR-1150	5608

7590 02/17/2006
KEVIN G. ROONEY
WOOD, HERRON & EVANS, L.L.P.
2700 CAREW TOWER
CINCINNATI, OH 45202

EXAMINER

HOPKINS, ROBERT A

ART UNIT	PAPER NUMBER
----------	--------------

1724

DATE MAILED: 02/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/675,146

Applicant(s)

HERING, UWE

Examiner

Robert A. Hopkins

Art Unit

1724

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

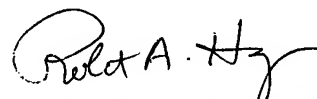
AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: examiner respectfully submits that the preamble "a powder coating apparatus" is not given patentable weight because claim 1 does not include any structural limitations in the body of the claim which clearly provide for coating of an article with powder particles. Claim 1 is an apparatus claim which clearly stands on its own as an apparatus for filtering and cleaning a gas flow with entrained particles within the gas flow. The limitations "with powder particles therein" in lines 7-8 refers to a material worked upon by the apparatus, and is not given patentable weight because the material worked upon is not a structural limitation of the apparatus. Examiner notes that the limitations of claim 1 are obvious over Remilieux taken together with Japanese reference, and the apparatus is applicable to any gas flow with entrained particles therein, including a gas flow with powder particles. See MPEP 2115. Examiner notes that the Japanese reference, as noted in the final rejection, is cited to show that it would have been obvious to provide a first filter element moving device coupled to the first filter element. Examiner respectfully submits that nothing in Japanese reference nor Remilieux teaches against providing a first filter element moving device coupled to the first filter element of Remilieux. Examiner also notes that Remilieux already teaches maintaining a flow of gas stream through another path, and such a limitation is not required to also exist in Japanese reference because such a limitation is not missing in Remilieux. Examiner also notes that the indication in the allowable subject matter to Remilieux of failing to teach a step of cleaning a filter element of powder filter from a gas within a powder coating apparatus is directed to a method claim and not an apparatus claim, such as in claim 1. Examiner notes that the method steps of claim 12 require a gas mixed with powder to be directed through a crude gas chamber and into a first filter element. Although Remilieux teaches a step of directing dust laden gas through a first filter element, the dust laden gas does not contain powder particles, and although Koch ,II teaches filtering powder particles with a filter element, combining Koch ,II with Remilieux to include filtration of powder particles would teach against the filtration of dust particles, specifically dust particles having electrostatic charges as noted in the background of Remilieux. Therefore , the reasons for allowance of a method claim cannot be applied to examination of an apparatus claim, wherein the scope of the apparatus and method claims are examined differently .



ROBERT A. HOPKINS
PRIMARY EXAMINER

A.U.1729